



***Substitute Senate Bill No. 231***

***Public Act No. 06-75***

***AN ACT CONCERNING VIOLATION OF THE CONNECTICUT  
BUSINESS OPPORTUNITY INVESTMENT ACT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 36b-72 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

(a) Whenever it appears to the commissioner, after an investigation, that any person or persons have violated, are violating or are about to violate any of the provisions of sections 36b-60 to 36b-80, inclusive, or any regulation, rule or order adopted or issued under said sections or that a further sale or offer to sell would constitute a violation of said sections, or any such regulation, rule or order, [adopted or issued under said sections,] the commissioner may [in his discretion] order the person or persons to cease and desist from the violations of the provisions of said sections or [of the] any such regulations, rules or orders [adopted or issued under said sections] or from further sale or offering to sell business opportunities constituting or which would constitute a violation of the provisions of said sections or [of the] any such regulations, rules or orders. [adopted or issued under said sections.] After any such order is issued, the person or persons named in such order may, within fourteen days after receipt of the order, file a written request for a hearing. Such hearing shall be held in accordance

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with the provisions of chapter 54.

(b) (1) Whenever [it appears to] the commissioner finds as the result of an investigation that any person or persons have violated any of the provisions of sections 36b-60 to 36b-80, inclusive, or any regulation, rule or order adopted or issued under said sections, the commissioner may send a notice to such person or persons by certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt. Any such notice shall include: (A) A reference to the title, chapter, regulation, rule or order alleged to have been violated; (B) a short and plain statement of the matter asserted or charged; (C) the maximum fine that may be imposed for such violation; and (D) the time and place for the hearing. Such hearing shall be fixed for a date not earlier than fourteen days after the notice is mailed.

(2) The commissioner shall hold a hearing upon the charges made unless such person or persons fail to appear at the hearing. Such hearing shall be held in accordance with the provisions of chapter 54. After the hearing if the commissioner finds that the person or persons have violated any of the provisions of sections 36b-60 to 36b-80, inclusive, or any regulation, rule or order adopted or issued under said sections, the commissioner may, [in the commissioner's discretion and] in addition to any other remedy authorized by said sections, order that a fine not exceeding [ten] one hundred thousand dollars per violation be imposed upon such person or persons. If such person or persons fail to appear at the hearing, the commissioner may, as the facts require, order that a fine not exceeding [ten] one hundred thousand dollars per violation be imposed upon such person or persons. The commissioner shall send a copy of any order issued pursuant to this subsection by certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, to any person or persons named in such order.

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(c) Whenever it appears to the commissioner that any person or persons have violated, are violating or are about to violate any of the provisions of sections 36b-60 to 36b-80, inclusive, or any regulation, rule or order adopted or issued under said sections, or that the further sale or offer to sell would constitute a violation of said sections, or any such regulation, rule or order, [adopted or issued under said sections,] the commissioner may [in his discretion and] in addition to any other remedy authorized by said sections: (1) [bring] Bring an action in the superior court for the judicial district of Hartford to enjoin the acts or practices constituting a violation and to enforce compliance with said sections or any such regulation, rule or order. [adopted or issued under said sections.] Upon a proper showing, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The court shall not require the commissioner to post a bond; (2) seek a court order imposing a fine not to exceed [ten] one hundred thousand dollars per violation against any person found to have violated any order issued by the commissioner; or (3) in addition to any other remedies provided by this section, apply to the superior court [hearing a matter under this section] for the judicial district of Hartford for an order of restitution whereby the defendants in such action shall be ordered to make restitution of those sums shown by the commissioner to have been obtained by them in violation of any of the provisions of said sections or any such regulation, rule or order, plus interest at the rate set forth in section 37-3a. Such restitution shall, at the option of the court, be payable to the receiver or conservator appointed pursuant to subdivision (1) of this subsection, or directly to the persons whose assets were obtained in violation of any provision of said sections or any such regulation, rule or order.

(d) Any time after the issuance of an order or notice provided for in subsection (a) or (b) of this section, the commissioner may accept an

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agreement by any [person charged with violating any provision of sections 36b-60 to 36b-80, inclusive,] respondent named in such order or notice to enter into a written consent order in lieu of an adjudicative hearing. The acceptance of a consent order shall be within the complete discretion of the commissioner. [or such presiding officer as has been designated by the commissioner.] The consent order provided for in this subsection shall contain (1) an express waiver of the right to seek judicial review or otherwise challenge or contest the validity of such order or notice; (2) a provision that [the] such order or notice may be used in construing the terms of the consent order; (3) a statement that such consent order shall become final when issued; (4) a specific assurance that none of the violations alleged in such order or notice shall occur in the future; (5) such other terms and conditions as are necessary to further the purposes and policies of sections 36b-60 to 36b-80, inclusive; (6) the signature of each of the individual respondents evidencing [his] such respondent's consent; and (7) the signature of the commissioner or of [his] the commissioner's authorized representative.

Sec. 2. Section 36b-79 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006*):

Within one hundred and twenty days following the end of the seller's most recent fiscal year and each year thereafter, each seller whose business opportunity has been registered under sections 36b-60 to 36b-80, inclusive, shall renew the registration by submitting to the commissioner: (1) An annual renewal registration fee of one hundred dollars, which shall be nonrefundable; (2) an application filed in accordance with the requirements of subsection (a) of section 36b-65, reflecting all amendments as of the date of filing; (3) a disclosure document filed in accordance with the requirements of sections 36b-62 and 36b-63, reflecting all amendments, clearly marked, since the date of the most recent disclosure document that was filed with the

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commissioner, or, if no such amendments have been made, an affidavit so stating; and (4) financial statements in accordance with the requirements of subsection (b) of section 36b-65. In the event that the seller fails to submit the fee and information within the time period and in accordance with requirements of this section, the registration of such seller's business opportunity shall terminate.

Approved May 30, 2006